

# EXHIBIT 1 TO COMPLAINT

DEPARTMENT OF VETERANS AFFAIRS  
OFFICE OF EMPLOYMENT DISCRIMINATION COMPLAINT ADJUDICATION  
WASHINGTON, D.C. 20420

FEB 28 2019

TRANSMITTAL OF FINAL AGENCY DECISION OR ORDER

TO: The Parties  
Representatives of the Parties (if applicable)  
ORM Field Office  
EEOC Administrative Judge (if applicable)

SUBJ: Final Agency Decision or Order

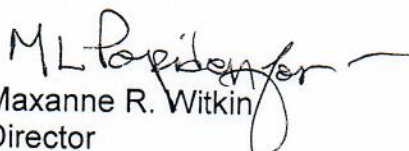
Complainant's Name: Charlotte Gearhart  
Agency Case No.: 2004-0658-2014104153  
EEOC No.: 430-20150036X

Enclosed is the Department's Final Agency Decision or Final Order concerning the above-referenced complaint(s) of employment discrimination.

The Final Decision/Order includes a statement explaining the complainant's right of appeal and right to file a civil action.

The transmittal to the complainant and, if applicable, the complainant's representative, includes EEOC Form 573 (MSPB Form 185, if the subject complaint is a "mixed case") for use should the complainant wish to appeal the enclosed Final Decision/Order.

If the complainant requested a hearing before an EEOC administrative judge, the transmittal to the ORM field office also encloses the hearing record, including the EEOC administrative judge's decision, and/or other miscellaneous correspondence/documents provided to this office by the judge.

  
Maxanne R. Witkin  
Director

Enclosure(s)

**DEPARTMENT OF VETERANS AFFAIRS  
OFFICE OF EMPLOYMENT DISCRIMINATION COMPLAINT ADJUDICATION  
WASHINGTON, D.C. 20420**

|                                |   |                                  |
|--------------------------------|---|----------------------------------|
| <u>Charlotte Gearhart</u>      | ) |                                  |
|                                | ) |                                  |
| <i>Complainant,</i>            | ) |                                  |
|                                | ) |                                  |
| v.                             | ) | VA Case No. 2004-0658-2014104153 |
|                                | ) |                                  |
| Secretary,                     | ) |                                  |
| Department of Veterans Affairs | ) | EEOC Case No. 430-2015-0366X     |
|                                | ) |                                  |
| <i>Agency,</i>                 | ) |                                  |

**FINAL ORDER**

It is the final action of this Department in the above-referenced matter to accept and fully implement the attached decision of the EEOC administrative judge.

If dissatisfied with this final action, the complainant may appeal or file a civil action as set forth below.

**RIGHT OF APPEAL**

Within 30 days of receipt of this final action, the complainant has the right to appeal it to: **Equal Employment Opportunity Commission, Office of Federal Operations, P.O. Box 77960, Washington, D.C. 20013.** If an appeal is filed, EEOC Form 573 should be used. A copy of EEOC Form 573 is attached.

A copy of the appeal to the EEOC **must** also be sent to the VA's Office of the General Counsel at the following address: **Department of Veterans Affairs, Office of the General Counsel (024), 810 Vermont Ave., N.W., Washington, D.C. 20420.** Statements or briefs in support of the appeal **must** be submitted to the EEOC within 30 calendar days of the filing of the appeal. A copy of any such statement or brief, including any statements made on EEOC's "Appellant Docketing Statement", must also be sent to the VA's Office of the General Counsel at the above address.



If an appeal is filed with the EEOC, the appeal, and any subsequently filed statement or brief, **must** contain a statement certifying the date and method by which copies of these documents were served on the VA's Office of the General Counsel.

If the complainant files an appeal with the Commission beyond the above-noted time limit, the complainant should provide the Commission with an explanation as to why the appeal should be accepted despite its untimeliness. If the complainant cannot explain why timeliness should be excused, the Commission may dismiss the appeal as untimely.

### RIGHT TO FILE A CIVIL ACTION

The complainant also has the right to file a civil action in an appropriate United States District Court. The complainant may file a civil action

within 90 days of receipt of this final action if no appeal to EEOC has been filed; or

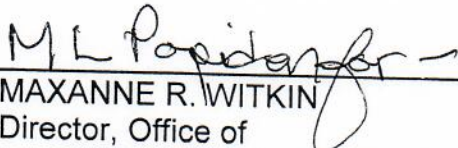
within 90 days after receipt of the EEOC's final decision on appeal; or

after 180 days from the date of filing an appeal with the EEOC if there has been no final decision by the Commission.

The complainant **must** name the person who is the official head of the Department of Veterans Affairs as the defendant. Department means the national organization, and not just the local office, facility, or unit in which the complainant works. The complainant may not name just the Department. The complainant must name **Robert L. Wilkie** as the defendant. The complainant must also state the official title of the Department head. The official title of the head of the Department of Veterans Affairs is **Secretary of Veterans Affairs**. Failure to provide the name or official title of the head of the Department may result in dismissal of the case.

If the complainant decides to file a civil action under Title VII (discrimination due to race, color, religion, sex, national origin, or reprisal) or under the Rehabilitation Act of 1973, as amended, (discrimination due to disability), and if the complainant does not have or cannot afford the services of an attorney, the complainant may request that the Court appoint an attorney to represent the complainant and that the Court permit the complainant to file the action without payment of fees, costs, or other security.

**The grant or denial of the request is within the sole discretion of the Court.** Filing a request for an attorney does not extend the time in which to file a civil action. Both the request and the civil action MUST BE FILED WITHIN NINETY (90) CALENDAR DAYS of the date the complainant receives the final action or final decision from the Department or the Commission.

  
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MAXANNE R. WITKIN  
Director, Office of  
Employment Discrimination  
Complaint Adjudication

**FEB 28 2019**

\_\_\_\_\_  
Date

Attachment: EEOC Form 573

DEPARTMENT OF VETERANS AFFAIRS  
OFFICE OF EMPLOYMENT DISCRIMINATION COMPLAINT ADJUDICATION  
WASHINGTON, D.C. 20420

**FEB 28 2019**

**CERTIFICATION OF SERVICE**

Complainant's Name: Charlotte Gearhart  
Agency Case No.: 2004-0658-2014104153  
EEOC No.: 430-20150036X

I certify that on this date, the foregoing Final Order was sent via First Class Mail to the individuals and parties shown below.

For timeliness purposes, it shall be presumed that the parties receive the foregoing Final Order within five (5) calendar days after the date it was sent via First Class Mail.

Complainant:

Charlotte Gearhart  
P.O. Box 31  
Check, VA 24072

Complainant's Representative:

John L. Cooley, Attorney  
Law Office of Cooley and Associates, PLC  
40 British Woods Drive., Suite 101  
Roanoke, VA 24019

Facility Director or Staff Office Head:

Director (658/00)  
Salem VA Medical Center  
1970 Roanoke Boulevard  
Salem, VA 24153

ORM Field Office:

Department of Veterans Affairs  
Office of Resolution Management (08D)  
810 Vermont Avenue, NW  
Washington, DC 20420



EEOC Administrative Judge:

M.J. Clay  
Administrative Judge  
U.S. Equal Employment Opportunity Commission  
Charlotte District Office  
129 W. Trade St., Suite 400  
Charlotte, NC 28202-5306

VA Regional Counsel's Office:

Amanda E. Shaw  
Department of Veterans Affairs  
Office of General Counsel (314/02A)  
North Atlantic District - South  
210 Franklin Rd., SW  
Roanoke, Virginia 24011

  
\_\_\_\_\_  
(Signature of Dispatcher)

**FEB 28 2019**  
\_\_\_\_\_  
(Date of Dispatch)